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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,509	08/26/2003	Albert Lee	1623-0146P	2705
2292	7590	01/11/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				GRAHAM, GARY K
ART UNIT		PAPER NUMBER		
		1744		

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/647,509	LEE, ALBERT	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gary K. Graham	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 October 2005.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 19 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,4-9,11,12 and 14-18 is/are rejected.
- 7) Claim(s) 3,10 and 13 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08262003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election of Group I, claims 1-18, in the reply filed on 24 October 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5 and 6 appear improper since they define the backing strip based on its relationship with the wiper blade when the wiper blade is not part of the backing strip. The claim sets forth a backing strip for a windshield wiper but defines the hooks positively with respect to the wiper blade. Such leads to confusion as to whether the blade is part of the claimed backing strip or not.

In claims 17 and 18, line 1, use of "The rail" appears confusing since multiple rails have been set forth in claims 8 and 1. It appears that claims 17 and 18 are to depend from claims 16 and 11, respectively. The claims have been further treated as such.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Ullrich et al (US patent 6,112,365).

The patent to Ullrich discloses the invention as is claimed. Ullrich discloses a rail (40), see figure 13, which includes a body portion and a detent portion with a pair of symmetrical cut-outs (41) on each side thereof. The cut-outs form a pair of hooks on each side of the detent portion. The internal edges of the hooks of Ullrich appear to be at an angle of less than 85 degrees as is claimed.

With respect to the intended use of the cut-outs, “for receiving a claw” or “for engaging a windshield wiper blade”, such does not act to define over the structure of Ullrich. The rail of Ullrich can be used in any manner so desired.

Claims 1, 2, 8, 11, 12 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Mower (EP patent 0465095).

The patent to Mower discloses the invention as is claimed. Mower discloses rails (25,27) for a wiper blade (see figure 5), which includes a body portion and a detent portion with a pair of symmetrical cut-outs provided or defined between areas (51) on each side thereof. The cut-outs form pairs of hooks on each side of the detent portion. The internal edges of the hooks of Mower appear to be at an angle other than 90 degrees with respect to the longitudinal length of the rail.

With respect to the intended use of the cut-outs, “for receiving a claw” or “for engaging a windshield wiper blade”, such does not act to define over the structure of Mower. However, the rail of Mower appears to be used in the manner claimed.

Claims 1, 4, 7, 11, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Orjela et al (US patent application publication 2002/0050019).

The publication of Orjela discloses the invention as is claimed. Note figure 1 which shows a pair of backing strips (4) received into a wiper blade (3). The rails includes a body portion and a detent portion. The detent portion includes a generally symmetrical cut-out on each side of the rail to define a pair of hooks on each side of the rail. Note that hooks (7) are for engaging the wiper blade and the hooks on the opposite side are for engaging with the claw (2) of the wiper assembly. The hooks (7) appear as thinner, at least longitudinally, than the other hooks.

With respect to claims 7 and 15, the width between the cut-outs appear as wider than the far end of the body portion.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ullrich et al (US patent 6,112,365).

The patent to Ullrich discloses all of the above recited subject matter with the exception of multiple rails.

While Ullrich discloses a single rail, to multiply such would have been obvious to one of skill in the art to enable supplying multiple wiper blades with rails. It is noted that the rails do not have to function together in any particular manner, only that there be a pair of them. It would seem that providing a vehicle with a pair of wiper blades, as is conventional, would result in a pair of rails as disclosed by Ullrich.

With respect to lines 5-8, the intended use of the rails and the cut-outs, "for receiving a claw" or "for engaging a windshield wiper blade", such does not act to define over the structure of Ullrich. The rail(s) of Ullrich can be used in any manner so desired.

***Double Patenting***

Applicant is advised that should claim 9 be found allowable, claim 17 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim 18 objected to under 37 CFR 1.75 as being a substantial duplicate of claim 10. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Allowable Subject Matter***

Claims 3, 10, 13 and 18 are object to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Note that it is assumed that claim 18 is to depend from claim 11.

It would appear that claims 5 and 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. If the combination of rail with the blade were claimed, it appear these claims would be allowable.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard D. Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary K Graham  
Primary Examiner  
Art Unit 1744

GKG  
06 January 2006